

Memorandum of Understanding

Between

Alaska Department of Health and Social Services, Public Health Laboratory

And

Idaho Department of Health and Welfare, Public Health Laboratory

And

Oregon Department of Human Services, Public Health Laboratory

And

Washington State Department of Health Public Health Laboratory

Identity of Parties and Purpose Statement

This Memorandum of Understanding (MOU) is between the **Alaska Department of Health and Social Services, Public Health Laboratory (APHL)**, the **Idaho Department of Health and Welfare, Public Health Laboratory (IPHL)** the **Oregon Department of Human Services, Oregon State Public Health Laboratory (OPHL)** and the **Washington State Department of Health, Public Health Laboratory (WPHL)**, hereinafter referred to as **Cooperative of State Labs**.

The purpose of the MOU is to address surge capacity. The MOU describes the levels and sharing of laboratory services, procedures, responsibilities and reimbursement for laboratory testing, training and identification of infectious diseases and/or suspected bio-terrorism select agents.

Indemnification

Each party to this agreement shall be responsible for its own acts and omissions and those of its officers, employees and agents. No party to this MOU shall be responsible for the acts and omissions of entities or individuals not a party to this MOU.

Independent Capacity

The employees or agents of each party who are engaged in the performance of this MOU shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

Alterations or Amendments

The **Cooperative of State Labs** may mutually amend this agreement. Such amendments will not be binding unless they are in writing and signed by personnel of each agency who have the delegated authority to bind each of the parties.

Disputes

In the event that a dispute arises under this MOU, the **Cooperative of State Labs** will make every effort to resolve the disagreement at the lowest organizational level. If those efforts are not successful, the parties will seek input from their next higher decision-making authority. Unresolved disputes shall be brought before a Dispute Board. Each party to this MOU shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint one additional member to the Dispute Board. The Dispute Board shall review the facts, applicable statutes and rules, and make a determination regarding the dispute. If there is a conflict of laws, then the laws of the state of the Testing Lab shall apply. The parties agree to abide by Dispute Board determination.

Contract Administration

The Directors of the **Cooperative of State Labs** will be responsible for administering this MOU.

Primary Contact for APhL: Bernard Jilly, Laboratory Director

Primary Contact for IPHL: Richard Hudson, Laboratory Director

Primary contact for OPHL: Michael Skeels, Laboratory Director

Primary contact for WPHL: Romesh Gautam, Laboratory Director

Records Maintenance

The parties to this MOU shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by any party in the performance of the MOU. These records shall be subject to inspection, review or audit by personnel of any of the parties, other personnel duly authorized by any of the parties, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this MOU, except medical records containing individually identifiable health information, will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period. Medical records containing individually identifiable health care information shall be maintained consistent with the laws of each state possessing or using the record.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will use reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

Governances and Assurances

This MOU is entered into pursuant to and under the authority granted by the laws of the States of Alaska, Idaho, Oregon and Washington, and any applicable federal laws. The provisions of this MOU shall be construed to conform to those laws. The parties agree that activity pursuant to this MOU will be in accordance with all applicable current or future federal, state and local laws, rules and regulations. If any provision of this MOU violates any statute, regulation, administrative rule, or case law of the States of Alaska, Idaho, Oregon or Washington, it is considered modified to conform to that statute or rule of law.

In the event of an inconsistency in the terms of this MOU, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. applicable state and federal statutes and rules;
- b. statement of work; and
- c. any other provisions of the agreement, including materials incorporated by reference.

Severability

The provisions of this Memorandum of Understanding are severable. If any provision of the Memorandum of Understanding is found to be invalid by any court, that finding shall not affect the other provisions of the MOU.

Integration

This MOU and Attachment A contain all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or binding on any of the parties.

Period of Performance and Termination of this MOU

This MOU will commence on the Date of Execution, which is the latest date of signatures noted below. Since this document describes a continuous work relationship between the four institutions, it will be reviewed annually by all parties on the anniversary of the Date of Execution. If not modified at the annual review, the MOU is deemed renewed. Any party may terminate its participation in this MOU upon 30 days advance written notification to the remaining Cooperative members.

The provisions included as **Attachment A** form the basis of understanding and scope of agreement for this MOU.

For: Alaska Department of Health and Social Services, Public Health Laboratory

Signature



Printed name and title

Richard Mandsager MD Director - State Health Official

Date

9/24/04

For: Idaho Department of Health and Welfare, Public Health Laboratory

Signature



Printed name and title

Richard H. Shultz, Administrator Division of Health - State Health Official

Date

9-3-04

For: Oregon Department of Human Services, Oregon State Public Health Laboratory

Signature



Printed name and title

Barry Kast, Assistant Director, Health Services, Oregon Dept. of Human Services

Date

October 4, 2004

For: Washington Department of Health, Public Health Laboratory

Signature



Printed name and title

Mary C. Selecky, Secretary - State Health Official

Date

8/31/04

Statement of Work - Attachment A
Between
Oregon Public Health Laboratory
And
Washington State Department of Health Public Health Laboratory
And
Alaska Department of Health and Social Services, Public Health Laboratory
And
Idaho Department of Health and Welfare, Public Health Laboratory

Surge Capacity for Routine Disease Outbreaks and Bioterrorism Events

Any party may request support (**Requestor**) from another **Cooperative of State Labs (Testing Lab)** to provide surge capacity for routine disease outbreaks and bioterrorism events. The **Requestor** will initiate the process by calling the primary contact and arranging mutually convenient times and places for assistance. Such request may be for testing, training, technical assistance, loan of equipment, supplies or other needs as the **Requestor** may have.

The **Testing Lab** will provide support based on its capacity at the time. Each party will endeavor to provide support whenever possible without interrupting the normal flow of business and within its testing capabilities, including bio-safety constraints.

General Provisions

Shipping

The **Requestor** is responsible for the cost of transportation, integrity of specimens and cost of supplies and equipment used in transport. If the **Testing Lab** has safety standards for protecting the public health, safety and welfare in transport of specimens within its borders, the **Requestor** shall incorporate the **Testing Lab's** safety standards into its packaging and shipping processes. If the Select Agent Rule is applicable, and more stringent, **Requestor** shall follow it.

Special agreements may be established for the specific request.

Equipment and Supplies

Testing equipment may be made available at either laboratory depending upon workload and scheduling parameters. The potential use of either party's equipment by the other shall be coordinated between the Primary Contacts.

Each party is responsible for maintenance and calibration of its own equipment. Equipment is loaned on an "as-is" basis, with every attempt made to assure it is in good working order and properly calibrated, unless otherwise noted. The **Requestor** is responsible for calibration and maintenance of loaned instruments while in its possession.

The **Requestor** is responsible for the cost of **safety equipment**. Safety equipment includes, but is not limited to, respirators, filters, gowns and masks

The **Requestor** is responsible for the cost of supplies, reagents and/or kits.

Personnel

Nothing in this MOU authorizes the loan of one state's personnel to another state to perform the work of the other state. Nor does this MOU supercede any personnel laws or collective bargaining agreements of the member states.

The **Testing Lab** shall provide **Requestor** personnel access to **Testing Lab** during normal business hours upon mutual agreement between the Primary Contacts. **Testing Lab** shall provide **Requestor** personnel with temporary identification badges or other access credentials. **Testing Lab** personnel will escort **Requestor** personnel within the laboratory as necessary. Each party will provide general laboratory safety training to its employees who may work at **Testing Labs** in member states. **Testing Lab** will provide facility-specific training to **Requestor** employees working on-site at **Testing Lab**. Laboratories lending equipment will provide equipment specific training to member state staff using the equipment.

While in each other's laboratory, personnel agree to abide by the rules, regulations, procedures and safety protocols of the other. Each party will establish and provide proof upon request that personnel hold appropriate security clearances prior to accessing security areas within each laboratory.

The **Requestor** is responsible for personnel travel and per diem costs.

Reporting of Results

It will be the sole responsibility of the **Testing Lab** to test and provide timely results to the **Requestor**.

The **Testing Lab** will report all test results (positive or negative) to the **Requestor** Laboratory Director. **Testing Lab** will also comply with the Laboratory Response Network protocols regarding notification, if testing involves bioterrorism agents. All test results are confidential and will not be disclosed by the **Testing Lab** to any outside party, except as authorized by law, and with prior notice to **Requestor** Lab Director.

Parties agree to provide expert testimony or statements, as requested by member states, concerning testing activities, protocols, or results.

Disposition of Samples

The **Testing Lab** will return positive samples to **Requestor** at **Requestor's** expense and consistent with **Requestor's** instructions, as **Requestor** is responsible for integrity of

specimens and chain of custody for its specimens. See "Shipping" provision for additional direction.

The **Testing Lab** will destroy negative samples according to its established procedures. Laboratory Directors must agree in writing to any other arrangement for disposing or returning samples.

Training

Each party agrees to make staff and laboratory time available to provide training to the other party as needed. Such training will be provided at no cost and will be pre-arranged between the Primary Contacts, subject to time and workload constraints.

Reimbursement

This MOU is a non-financial agreement between the parties and no billing for services will occur. If **Testing Lab** uses its supplies to conduct testing for the **Requestor**, the **Testing Lab** will provide a complete listing of supplies used to **Requestor** as soon as possible after the testing has been completed. The **Requestor** will replace **Testing Lab's** supplies with like-supplies as soon as possible after receiving the list from the **Testing Lab**. The **Testing Lab** may waive replacement of expenditures for supplies.

If loaned equipment is damaged or destroyed, the responsible member state shall reimburse the lending state the lesser of repair costs or replacement value.

Bioterrorism Specific Provisions not Otherwise Addressed

The **Requestor** Lab Director shall make the request for surge capacity.

The **Testing Lab** agrees to provide such assistance on a 24 hour, seven-day per week basis, subject to capacity and workload limitations.

A **Testing Lab** conducting confirmatory testing of suspected bioterrorism agents will use CDC-approved Laboratory Response Network protocols and reagents.

Shipping, handling, testing and storage will be in accordance with Select Agent Rules unless more stringent rules/procedures apply. See "Shipping" provision for additional direction.

Each **Lab** shall adhere to chain of custody protocols approved by the FBI Weapons of Mass Destruction Coordinator when a terrorist event is suspected. If requested, each party will make available to the other any necessary documentation in order to maintain chain of custody.